

Badger
against
Lloyd.

The CASE of *John Lloyd* Gent. Lessor of the Plaintiff.

The PEDIGREE.

Old *John Lloyd* the Grandfather had Issue Four SONS:

{ JOHN } Died without Issue, 17 Febr. 1679.	{ THOMAS } Died without Issue, 2d Septemb. 1684.	{ PAUL } Died without Issue, 9 Novemb. 1669.	PETER Died 3d of October 1674, and left Issue JOHN the Lessor of the Plaintiff.
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OLD *John Lloyd* the Grandfather, on the Marriage of his Eldest Son *John Lloyd*, by Indenture dated the First of January 1649, settled the Lands in Question, lying in *Whittington* and *Shrewsbury*, in the County of *Salop*; To the Use of himself for 99 Years, if he lived so long; And after his Death, to *John* his Son for Life; And after his Death, then as to part of the Lands to the Use of *Elizabeth* his Wife for Life, for her Joynture; And the whole He settled, after their Deaths, to all the Sons of *John* the Son by his said Wife, successively in Tail-Male; And for want of such Issue, to *John*, the Son in Tail-Male; And for want of such Issue, to Old *John* in Tail-Male; And for want of such Issue, to the Right Heirs of Old *John Lloyd*.

That the said *John Lloyd* the Grandfather made his Will, dated the 3d of March 1653, and thereby takes notice of the said Deeds of Settlement made on his Son *John*, and also of a Settlement he had made on his Son *Thomas*, who was his Eldest Son by his second Wife, and makes provision by a Devise of some other Lands for his Sons, *Paul* and *Peter*.

The Words
of the Will.

And then adds these Words: *Lastly*, My Will is, That if my Son *John Lloyd* shall dye without Issue-Male lawfully begotten, his Daughters being provided for according to the Indenture in that behalf made; That then my Son *Thomas Lloyd* shall possess and enjoy all the Estate in Lands, Houses and Tythes (being the Lands in Question) which my Son *John* had and enjoyed.

And if my Son *Thomas* shall dye without Issue-Male lawfully begotten, my Will is, That then my Son *John* shall inherit and enjoy all his Lands, viz. *Mays Y Termin-Farm*, *Humfry Eaton's Farm*, and *Bingil-Tythes*; And my Son *Paul* to have and enjoy all my Son *Thomas* his Lands.

And if it shall happen that both my Sons *John* and *Thomas* shall dye without Issue-Male lawfully begotten, my Will is, That then my Son *Paul* shall inherit and enjoy all my Lands, Houses, Tythes, and whatsoever else I have in the County of *Salop*.

And if my Son *Paul* shall dye without Issue-Male lawfully begotten, and none of his other Brothers living; Then my Will is, That my Son *Peter* shall inherit and enjoy their Three Estates so dying unto himself, and his Heirs for ever.

Again, If my Son *Peter* shall happen to dye before the Rest of his Brothers, without Issue-Male lawfully begotten; Then my Will is, That all his Lands shall come and descend unto the Eldest of my Sons that then shall be living.

Lastly, My Will and Meaning is, That all my Estates in Lands, Houses, Tythes and Woods whatsoever, shall come and descend unto my Name and Posterity for ever, as is before specified, and not to Strangers; And which soever of my Sons shall survive; and live longer than all the rest of his Brethren, then he to possess all, and enjoy my Estates to him and his Heirs for ever: And I do Charge all my Sons, upon my Blessing, that they perform this my Will.

Yet if it should so happen, as I Trust in God it will not, that none of my Sons shall have any Issue-Male, but Daughters; Then my Will is, That their Daughters shall inherit my Estates amongst them: And if my Sons have neither Sons nor Daughters, which I Trust in God will not be so; Then my Will is, That the Right Heirs of my Father's of *Drenweth* shall inherit all my Lands, Houses and Tythes in the County of *Salop*.

That *John* the Son being seized of the Lands in Question the 13th Year of King *Charles* the Second, suffered a Recovery, and settled the same upon himself for Life; and after his Death, to his Wife for Life, and to his Issue-Male; and his Intention was, That the Estate should go as is directed by the Will of Old *John Lloyd*; and therefore on failure of his own Issue-Male, he Limits it to and for the Use and Benefit of such Person and Persons, and for such Uses, Estates, Intents and Purposes, as were limited, appointed, and declared by the Last Will and Testament of the said *John Lloyd*, the Grandfather.

John Lloyd the Son after died without Issue, and *Thomas* his Brother, who was barely Tenant in Tail in remainder (in the Life-time of *Elizabeth* the Joyntress) by his Will gave the Estate in Question to the Defendant (who is a meer Stranger, and no Relation to Old *John Lloyd*) and his Heirs; And the Lessor of the Plaintiff, as Heir of the Body of *Peter*, now Claims this Estate, and hath Judgment to Recover it by the Unanimous Opinion of all the Judges of England in the Courts of *King's-Bench* and *Exchequer-Chamber*.

The Pretence of the Defendant, That the Remainder to *Peter*, by the Will of Old *John Lloyd*, was Contingent only, if *Paul* died without Issue, *John* and *Thomas* being dead before him; Being agreed to be frivolous, and the intent of Old *John Lloyd*, by his Will plainly appearing to be, That every of his Sons should be successively Tenants in Tail-Male:

Wherefore it's humbly hoped that the Judgment of the said Courts shall be Affirmed.

EDWARD NORTHY.